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**BEFORE THE  
DEPARTMENT OF CONSUMER AFFAIRS  
FOR THE BUREAU OF AUTOMOTIVE REPAIR  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**M & A'S SMOGS PLUS; JENNIFER  
LOUISE FABER, Owner  
4055 W. Century Blvd. Bay #5  
Inglewood, CA 90304  
Automotive Repair Dealer Registration No.  
ARD 262816  
Smog Check Test Only Station License No.  
TC 262816**

**and**

**JOHN PAUL FABER  
3208 W. 17th St.  
Los Angeles, CA 90019  
Smog Check Inspector License No. EO  
632254**

Respondents.

Case No. 79/15-14

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 24, 2014, Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/15-14 against M & A's Smogs Plus; Jennifer Louise Faber, Owner (Respondent M & A's Smogs Plus)

1 and John Paul Faber (Respondent Faber) before the Director of Consumer Affairs. (Accusation  
2 attached as Exhibit A.)

3 2. On or about July 28, 2010, the Bureau of Automotive Repair (Bureau) issued  
4 Automotive Repair Dealer Registration No. ARD 262816 to Respondent M & A's Smogs Plus.  
5 The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the  
6 charges brought in Accusation No. 79/15-14 and expired on July 31, 2014. This lapse in  
7 licensure, however, pursuant to Business and Professions Code section 118(b) does not deprive  
8 the Bureau of its authority to institute or continue this disciplinary proceeding.

9 3. On or about September 3, 2010, the Bureau of Automotive Repair issued Smog  
10 Check Test Only Station License No. TC 262816 to Respondent M & A's Smogs Plus. The  
11 Smog Check Test Only Station License was in full force and effect at all times relevant to the  
12 charges brought in Accusation No. 79/15-14 and expired on July 31, 2014. This lapse in  
13 licensure, however, pursuant to Business and Professions Code section 118(b) does not deprive  
14 the Bureau of its authority to institute or continue this disciplinary proceeding.

15 4. On or about July 9, 2010, the Bureau of Automotive Repair issued Advanced  
16 Emission Specialist Technician License Number EA 632254<sup>1</sup> to Respondent Faber. The  
17 Advanced Emission Specialist Technician License was due to expire on January 31, 2014.  
18 Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license  
19 was renewed, pursuant to Respondent Faber's election, as Smog Check Inspector License  
20 Number EO 632254 effective January 29, 2014. Respondent Faber's Smog Check Inspector  
21 License expired on July 23, 2014. This lapse in licensure, however, pursuant to Business and  
22 Professions Code section 118(b) does not deprive the Bureau of its authority to institute or  
23 continue this disciplinary proceeding.

24 5. On or about August 18, 2014, Respondents were served by Certified and First Class  
25 Mail copies of the Accusation No. 79/15-14, Statement to Respondent, Notice of Defense,

26 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28,  
27 3340.29 and 3340.30 were amended to implement a license restructure from the Advanced  
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog  
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
2 and 11507.7) at Respondents' address of record which, pursuant to Business and Professions  
3 Code section 136, is required to be reported and maintained with the Bureau. Respondent's M &  
4 A's Smogs Plus address of record was and is: 4055 W. Century Blvd. Bay #5 Inglewood, CA  
5 90304, while Respondent Faber's address of record was and is 3208 W. 17th St. Los Angeles, CA  
6 90019.

7 6. Service of the Accusations was effective as a matter of law under the provisions of  
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
9 124.

10 7. On or about September 2, 2014, the aforementioned documents were returned by the  
11 U.S. Postal Service marked "No Forwarding Address."

12 8. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
15 of the accusation not expressly admitted. Failure to file a notice of defense shall  
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
17 may nevertheless grant a hearing.

18 9. Respondents failed to file a Notice of Defense within 15 days after service upon them  
19 of the Accusation, and therefore waived their right to a hearing on the merits of Accusation No.  
20 79/15-14.

21 10. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the  
23 hearing, the agency may take action based upon the respondent's express admissions  
24 or upon other evidence and affidavits may be used as evidence without any notice to  
25 respondent.

26 11. Pursuant to its authority under Government Code section 11520, the Director after  
27 having reviewed the proof of service dated August 18, 2014, signed by L.M. Robinson, and the  
28 return envelopes, finds Respondents are in default. The Director will take action without further  
hearing and, based on Accusation No. 79/15-14 and the corresponding proof of service and on the  
Affidavit of Bureau Representative Dan Schwartz, finds that the allegations in the Accusation are  
true.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent M & A's Smogs Plus has  
3 subjected her Automotive Repair Dealer Registration (No. ARD 262816) and Smog Check Test  
4 Only Station License (No. TC 262816) to discipline.

5 2. Based on the foregoing findings of fact, Respondent Faber has subjected his Smog  
6 Check Inspector License (No. EO 632254) license to discipline.

7 3. The agency has jurisdiction to adjudicate this case by default.

8 4. The Director of Consumer Affairs is authorized to revoke Respondent M & A's  
9 Smogs Plus's Automotive Repair Dealer Registration and Smog Check Test Only Station License  
10 as well as Respondent Faber's Advanced Emission Specialist Technician and Smog Check  
11 Inspector Licenses based upon the following violations alleged in the Accusation which are  
12 supported by the evidence contained in the affidavit of Bureau Representative Dan Schwartz in  
13 this case:

14 **Respondent M & A's Smogs Plus**

- 15 a. Business and Professions Code section 9884.7, subdivision (a)(1) (Misleading  
16 Statements.)
- 17 b. Business and Professions Code section 9884.7, subdivision (a)(4) (Fraud.)
- 18 c. Health and Safety Code section 44072.2, subdivision (a) (Violations of the Motor  
19 Vehicle Inspection Program.)
- 20 d. Health and Safety Code section 44072.2, subdivision (c) (Violations of Regulations  
21 Pursuant to the Motor Vehicle Inspection Program.)
- 22 e. Health and Safety Code section 44072.2, subdivision (d) (Dishonesty, Fraud or  
23 Deceit.)

24 **Respondent Faber**

- 25 a. Health and Safety Code section 44072.2, subdivision (a) (Violations of the Motor  
26 Vehicle Inspection Program.)
- 27 b. Health and Safety Code section 44072.2, subdivision (c) (Violations of Regulations  
28 Pursuant to the Motor Vehicle Inspection Program.)

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c. Health and Safety Code section 44072.2, subdivision (d) (Dishonesty, Fraud or Deceit.)

ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 262816, Smog Check Test Only Station License No. TC 262816, and Smog Check Inspector License No. EO 632254, heretofore issued to Respondents are revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondents may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The motion should be sent to the Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 24, 2015.

It is so ORDERED January 5, 2015



\_\_\_\_\_  
TAMARA COLSON  
Assistant General Counsel  
Department of Consumer Affairs

51610004.DOC  
DOJ Matter ID:LA2014612313

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 THOMAS L. RINALDI  
Deputy Attorney General  
4 State Bar No. 206911  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2541  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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8 **BEFORE THE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 79/15-14

12 **M & A'S SMOGS PLUS; JENNIFER**  
13 **LOUISE FABER, OWNER**  
14 **4055 W. Century Blvd. Bay #5**  
**Inglewood, CA 90304**

**ACCUSATION**

**(SMOG CHECK)**

15 **Automotive Repair Dealer Registration No.**  
**ARD 262816**  
16 **Smog Check Test Only Station License No.**  
**TC 262816,**

17 **and**

18 **JOHN PAUL FABER**  
19 **3208 W. 17th St.**  
**Los Angeles, CA 90019**

20 **Smog Check Inspector License No. EO**  
21 **632254 (formerly Advanced Emission**  
**Specialist Technician License No. EA**  
22 **632254)**

23 Respondents.

24 Complainant alleges:

25 **PARTIES**

26 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as  
27 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.



1 (1) Making or authorizing in any manner or by any means whatever any  
statement written or oral which is untrue or misleading, and which is known, or which  
2 by the exercise of reasonable care should be known, to be untrue or misleading.

3 (4) Any other conduct that constitutes fraud.

4 (b) Except as provided for in subdivision (c), if an automotive repair  
dealer operates more than one place of business in this state, the director pursuant to  
5 subdivision (a) shall only suspend, revoke, or place on probation the registration of  
the specific place of business which has violated any of the provisions of this chapter.  
6 This violation, or action by the director, shall not affect in any manner the right of the  
automotive repair dealer to operate his or her other places of business.

7 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or  
8 place on probation the registration for all places of business operated in this state by  
an automotive repair dealer upon a finding that the automotive repair dealer has, or is,  
9 engaged in a course of repeated and willful violations of this chapter, or regulations  
adopted pursuant to it.

10 7. Code section 9884.13 provides, in pertinent part, that the expiration of a valid  
11 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary  
12 proceeding against an automotive repair dealer or to render a decision invalidating a registration  
13 temporarily or permanently.

14 8. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"  
15 "commission," "committee," "department," "division," "examining committee," "program," and  
16 "agency." "License" includes certificate, registration or other means to engage in a business or  
17 profession regulated by the Code.

18 9. Section 44002 of the Health and Safety Code provides, in pertinent part, that the  
19 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
20 the Motor Vehicle Inspection Program.

21 10. Section 44072.2 of the Health and Safety Code states, in pertinent part:

22 The director may suspend, revoke, or take other disciplinary action  
23 against a license as provided in this article if the licensee, or any partner, officer, or  
director thereof, does any of the following:

24 (a) Violates any section of this chapter [the Motor Vehicle Inspection  
25 Program (Health and Saf. Code, § 44000, et seq.)] and the regulations adopted  
pursuant to it, which related to the licensed activities.

26 (c) Violates any of the regulations adopted by the director pursuant to  
27 this chapter.

28 (d) Commits any act involving dishonesty, fraud, or deceit whereby  
another is injured.







1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

3 20. Respondent M & A's Smogs Plus has subjected her station license to discipline under  
4 Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth in  
5 Table 1, above, she violated sections of the California Code of Regulations, title 16, as follows:

6 a. **Section 3340.24, subdivision (c):** Respondent M & A's Smogs Plus falsely or  
7 fraudulently issued electronic certificates of compliance without performing bona fide inspections  
8 of the emission control devices and systems on those vehicles as required by Health and Safety  
9 Code section 44012.

10 b. **Section 3340.35, subdivision (c):** Respondent M & A's Smogs Plus issued  
11 electronic certificates of compliance even though those vehicles had not been inspected in  
12 accordance with section 3340.42 of that Code.

13 c. **Section 3340.42:** Respondent M & A's Smogs Plus failed to conduct the required  
14 smog tests and inspections on those vehicles in accordance with the Bureau's specifications.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Dishonesty, Fraud or Deceit)**

17 21. Respondent M & A's Smogs Plus has subjected its station license to discipline under  
18 Health and Safety Code section 44072.2, subdivision (d), in that regarding the vehicles set forth  
19 in Table 1, above, she committed acts involving dishonesty, fraud or deceit whereby another was  
20 injured by issuing electronic certificates of compliance for those vehicles without performing  
21 bona fide inspections of the emission control devices and systems on those vehicles, thereby  
22 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
23 Inspection Program.

24 **SIXTH CAUSE FOR DISCIPLINE**

25 **(Violations of the Motor Vehicle Inspection Program)**

26 22. Respondent Faber has subjected his inspector license to discipline under Health and  
27 Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth in Table 1,  
28 he violated sections of that Code, as follows:

1 a. **Section 44012, subdivision (a):** Respondent Faber failed to determine that all  
2 emission control devices and systems required by law were installed and functioning correctly in  
3 accordance with test procedures.

4 b. **Section 44012, subdivision (f):** Respondent Faber failed to perform emission control  
5 tests on those vehicles in accordance with procedures prescribed by the department.

6 c. **Section 44032:** Respondent Faber failed to perform tests of the emission control  
7 devices and systems on those vehicles in accordance with section 44012 of that Code, in that  
8 those vehicles had been clean piped.

9 d. **Section 44059:** Respondent Faber willfully made false entries for the electronic  
10 certificates of compliance by certifying that those vehicles had been inspected as required when,  
11 in fact, they had not.

#### 12 **SEVENTH CAUSE FOR DISCIPLINE**

##### 13 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

14 23. Respondent Faber has subjected his inspector license to discipline under Health and  
15 Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth in Table 1,  
16 he violated sections of the California Code of Regulations, title 16, as follows:

17 a. **Section 3340.24, subdivision (c):** Respondent Faber falsely or fraudulently issued  
18 electronic certificates of compliance without performing bona fide inspections of the emission  
19 control devices and systems on those vehicles as required by Health and Safety Code section  
20 44012.

21 b. **Section 3340.30, subdivision (a):** Respondent Faber failed to inspect and test those  
22 vehicles in accordance with Health and Safety Code section 44012.

23 c. **Section 3340.41, subdivision (c):** Respondent Faber entered false information into  
24 the Emission Inspection System ("EIS") for the electronic certificates of compliance by entering  
25 vehicle emission control information for vehicles other than the vehicles being certified.

26 d. **Section 3340.42:** Respondent Faber failed to conduct the required smog tests and  
27 inspections on those vehicles in accordance with the Bureau's specifications.  
28

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit)**

3 24. Respondent Faber has subjected his inspector license to discipline under Health and  
4 Safety Code section 44072.2, subdivision (d), in that he committed acts involving dishonesty,  
5 fraud or deceit whereby another was injured by issuing electronic certificates of compliance for  
6 the vehicles set forth in Table 1, above, without performing bona fide inspections of the emission  
7 control devices and systems on those vehicles, thereby depriving the People of the State of  
8 California of the protection afforded by the Motor Vehicle Inspection Program.

9 **OTHER MATTERS**

10 25. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily  
11 or permanently or refuse to validate, the registrations for all places of business operated in this  
12 state by M & A's Smogs Plus, upon a finding that she has, or is, engaged in a course of repeated  
13 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

14 26. Under Health and Safety Code section 44072.8, if Station License Number TC  
15 262816, issued to M & A's Smogs Plus is revoked or suspended, any additional license issued  
16 under this chapter in the name of said licensee may be likewise revoked or suspended by the  
17 director.

18 27. Under Health and Safety Code section 44072.8, if Respondent Faber's Smog Check  
19 Inspector License (Number EO 632254) is revoked or suspended, any additional license issued  
20 under this chapter in the name of said licensee may be likewise revoked or suspended by the  
21 director.

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Director of Consumer Affairs issue a decision:

25 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
26 262816, issued to Respondent M & A's Smogs Plus;

27 2. Revoking or suspending Smog Check Test Only Station License Number TC  
28 262816, issued to Respondent M & A's Smogs Plus;

1           3.    Revoking or suspending Smog Check Inspector License Number EO 632254  
2 (formerly Advanced Emission Specialist Technician License No. EA 632254), issued to  
3 Respondent Faber;

4           4.    Ordering Jennifer Louise Faber and John Paul Faber to pay the Bureau of Automotive  
5 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to  
6 Business and Professions Code section 125.3;

7           5.    Taking such other and further action as deemed necessary and proper.

8

9

DATED: 7-24-14

Patrick Dorais by Doug Balatti

10

PATRICK DORAIS  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

DOUG BALATTI  
Assist. Chief

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